

# Getting a standard patent in Australia.

The Standard Patent is the main way you can protect significant new developments. It gives a 20 year monopoly.

Where the invention has been developed in Australia, the usual first step towards patent protection is a "provisional" patent application. This has one main purpose: to establish a "priority date" for your invention. This date is vital, because patenting of a particular invention is on a "first come first served" basis. In Australia (and most countries) the inventor with the earliest priority date is generally entitled to patent protection. The provisional application also frees you to disclose your invention publicly, and begin exploiting it commercially. The application includes a "specification" placing on record what the invention is, and lasts for 12 months only.

Details of the invention are not automatically published, and you can continue development in secret if you wish. You can file extra provisional applications for any improvements you make.

Within 12 months of the provisional application, a "complete" patent application is made, with a specification now including "claims" setting out the monopoly sought. If extra provisional applications have been made, covering aspects of the original invention, it may be appropriate to combine them in a single complete application.

The patenting process can actually start with a complete application, with no provisional application at all, but this is unusual for locally developed inventions.

The Patent Office will publish the complete application - thus revealing your invention at 18 months after the priority date. Later, it will examine the application for patentability.

If any objections are made, they must be overcome before the application can be accepted. Other people then have a chance to oppose the grant of your patent, and the Patent Office decides such disputes. If there is

no opposition (or if you defeat it) your Standard Patent will be granted. The process from priority date to a granted Standard Patent can vary upwards from 3 years.

Your complete application may cover several inventions, but the granted patent can cover only one. The others can be protected by filing "divisional" applications, based on the main one. Patents resulting from divisional applications will share the same priority date as the main application, and can be filed up to three months after its acceptance.

Your standard patent provides a monopoly in Australia only. To patent in other countries, you need to apply in each country of interest. Your Australian priority date will be recognised in most of them, provided you apply within 12 months of it.

The diagram overleaf shows, in a simple way, the process for obtaining a Standard Patent.

Note: This is a simplified account. Many options and variations have been omitted for simplicity. For individual cases, you should consult Watermark for specific advice.

In Australia, there is another type of patent: the Innovation Patent is for more minor inventions and gives an 8 year monopoly.

For more information please refer to our separate leaflet Getting an Innovation Patent in Australia available at [www.watermark.com.au](http://www.watermark.com.au)

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